

AUG 19 2008

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

ARTURO GAMEZ-VILLAGRANA,
A.K.A. Arturo Games Villagrama A.K.A.
Arturo Gomez A.K.A. Arturo Villagrana,

Petitioner,

v.

MICHAEL B. MUKASEY,** Attorney
General,

Respondent.

No. 05-75441

Agency No. A71-841-726

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Argued and Submitted March 13, 2007
San Francisco, California

Before: BRUNETTI, W. FLETCHER, and BEA, Circuit Judges.

We vacate the stay of removal and deny Gamez-Villagrana's petition for review of the Board of Immigration Appeals' ("BIA") decision affirming the

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** Michael B. Mukasey is substituted for his predecessor, Alberto R. Gonzales, as Attorney General of the United States, pursuant to Fed. R. App. P. 43(c)(2).

Immigration Judge's ("IJ") order finding him removable based on a prior conviction involving a controlled substance.

Gamez-Villagrana petitioned for review in this court, arguing that he is not removable because he acquired United States citizenship through his mother, Simona, a United States citizen who is now deceased. *See Gamez-Villagrana v. Gonzales*, No. 05-75441 (9th Cir. Aug. 2, 2007). Pursuant to 8 U.S.C. § 1252(b)(5)(B), we held his petition in abeyance and transferred the proceeding to the federal district court for the District of Arizona, where petitioner is in custody, for a de novo hearing on his claim of citizenship. *See id.*

After an evidentiary hearing, the district court concluded that Petitioner is not a citizen of the United States. *Gamez-Villagrana v. Mukasey*, No. CV-07-1519-PHX-FJM (D. Ariz. June 11, 2008). The district court's holding was based on Petitioner's abandonment of his claim to citizenship under 8 U.S.C. § 1409(c) and his failure to satisfy his burden of proof of citizenship under 8 U.S.C. § 1401(g). *See id.* Following the district court's decision, the government has moved in this court to vacate the stay of removal, affirm the BIA, and deny the petition for review. Petitioner has not submitted a response.

Because the district court resolved Petitioner's claim to citizenship against him, and because Petitioner did not challenge the district court's order or attempt to raise any additional bases for review, we grant the government's motion.

Stay of removal VACATED and petition for review DENIED.